



4410-15

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On September 22, 2017, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of New Mexico in the lawsuit titled *United Nuclear Corp., et al., v. United States of America*, Civil Action No. 15-cv-411.

This case relates to contamination associated with past uranium mining operations conducted by United Nuclear Corporation, El Paso Natural Gas Company LLC, and Homestake Mining Company of California (collectively, the “mining companies”) at the San Mateo Uranium Mine Site in Cibola County, New Mexico (the “Site”). The Site is largely located within the Cibola National Forest, which is land managed by the United States Forest Service (“USFS”), a sub-agency of the United States Department of Agriculture (“USDA”). Pursuant to its authority under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. § 9601 *et seq.*, the USFS issued a unilateral administrative order (“UAO”) to the mining companies requiring them to perform response actions to address the hazardous substances at the Site. In 2015, the mining companies filed a complaint against the United States under Section 107 of CERCLA, 42 U.S.C. § 9607, seeking to recover the response costs incurred by the mining companies in implementing the UAO. The United States filed a counterclaim on behalf of the USFS, USDA, and the United States Environmental Protection Agency (“EPA”) against the mining companies under Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, for the United States’ past and future response costs at the Site.

The proposed Consent Decree would resolve claims and counterclaims asserted by the mining companies and the United States. The United States will pay \$1.595 million to the

mining companies and the mining companies will pay \$25,000 to the EPA Hazardous Substance Superfund (“Superfund”). The United States covenants to not sue the mining companies under Section 106 or 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, for past and future work by the mining companies related to implementation of the UAO or the United States’ response costs. The mining companies will be entitled to protection from contribution actions or claims under Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), for matters addressed in the proposed Consent Decree. Pursuant to the proposed Consent Decree, the mining companies covenant not to bring any claims against the United States for the work related to implementation of the UAO, other response actions, the United States’ response costs, or the mining companies’ response costs. The USFS, USDA, and the United States Department of Energy, as settling federal agencies, agree not to assert a claim for reimbursement from the Superfund with respect to work related to the implementation of the UAO, past response actions, United States response costs, or the mining companies’ response costs.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United Nuclear Corp., et al., v. United States of America*, D.J. Ref. No. 90-11-3-11380. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov

By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611
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During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: <http://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library  
U.S. DOJ – ENRD  
P.O. Box 7611  
Washington, D.C. 20044-7611

Please enclose a check or money order for \$24.00 (25 cents per page reproduction cost) payable to the United States Treasury.

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